IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1815 OF 2005

Dnyaneshwar Ramchandra Mhamunkar ...Petitioner

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. N.V. Sawant, Advocate for Petitioner
Mr. Rajesh More, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 4TH AUGUST, 2005

P. C.:-

1. Heard both sides.

2. The petitioner has preferred this petition for quashing of chapter proceedings being case No.155/2005 initiated by the respondent No.2 i.e. Special Executive Magistrate, Bhandup Division, Mumbai. The said proceedings are under Section 107 of Cr.P.C. In the said proceedings show cause notice has been issued to the petitioner.

3. The learned advocate for the petitioner has submitted that there is no averment in the show cause notice that there is any likelihood of breach of peace or any likelihood of disturbance in public tranquillity. However, prima facie on reading the show cause notice, I find this contention to be incorrect. In the said show cause notice, it is specifically stated that to maintain public peace and

tranquillity which are being disturbed on account of the acts of the petitioner, the respondent No.2 found it necessary to initiate the proceedings under section 107 of Cr.P.C. against the petitioner.

4. Thereafter, the learned advocate for the petitioner has submitted that looking to the facts of this case it cannot be said that there is possibility of breach of peace or possibility of disturbing the public tranquillity and hence, in such case the proceedings against the petitioner under Section 107 of Cr.P.C. ought to be quashed and set aside.

5. In the present case it is seen that a show cause notice has been issued to the petitioner. At this stage, in my opinion, it would be pre-mature to quash the proceedings against the petitioner. In this view of the matter, I am not inclined to quash the chapter proceedings at this stage. The Special Executive Magistrate, shall give sufficient opportunity to the petitioner to defend himself by leading evidence if necessary and thereafter, decide the proceedings. In case order is passed directing the petitioner to execute a final bond, he shall be given three days time to furnish bond and surety.

6. Writ petition is disposed of in terms of the above order.

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